

### **REMARKS/ARGUMENTS**

Claims 1-7 remain in this application. Claim 1 has been amended. Reconsideration and reexamination of pending claims 1-7 is respectfully requested.

In response to the Office Action mailed July 13, 2005, the Examiner's claim rejections have been considered. Applicants respectfully traverse all rejections regarding all pending claims and earnestly solicit allowance of these claims.

#### **Priority**

The Examiner states that the provisional application does not provide adequate support under 35 USC 112 because there is more disclosure in the patent application than is in the provisional patent application. Applicant respectfully disagrees. The mere fact that the non-provisional application provides further detail is not the test for enablement under 35 U.S.C. 112. Accordingly, Applicant respectfully disagrees with Examiner's priority assessment and hereby maintains the claims to priority to the provisional patent application.

#### **Inventorship**

The Examiner raises a question of inventorship. Applicant has submitted a declaration of inventorship in this case. Unless the Examiner has independent evidence of improper inventorship, the declaration by the inventors themselves should be accepted.

#### **1. Claim Rejections under 35 U.S.C. § 103(a)**

The Examiner rejected claims 1-7 under 35 U.S.C. § 103(a) as being unpatentable over Ortiz et al (one of the inventors) in view of Bandak et al (abstract). Applicant respectfully disagrees. The article cited by the Examiner is directed to analysis of fragmentation only and does not address the dynamics of the projectile and body (bone), nor does it address the calculation of contact forces through time as set forth in amended claim 1.

The Examiner states that section 4 of the reference (Simulation of the Drop-Weight Dynamic Fracture Test) teaches elements of the claimed invention. Applicant respectfully

disagrees. For example, there is no determination of the dynamics of the projectile and body in the cited reference. By contrast, the body has a pre-crack in place, the point of contact is known, and the velocity of the projectile is fixed. The projectile does not enter the body, so there is no determination of the dynamics of the projectile as it enters and exits the body. In fact, there is neither entering nor exiting of the projectile in the cited reference. In addition, there is no analysis of the contact forces of the projectile and the body. The cited reference only teaches the analysis of the crack formed in the body after initial contact. By contrast, the invention claims the calculation of contact forces over time, as the projectile maintains contact with the body during entering and exiting. Such a complex analysis is not taught, described, or suggested in the cited reference. As a result, the combination suggested by the Examiner lacks claimed elements.

**CONCLUSION**

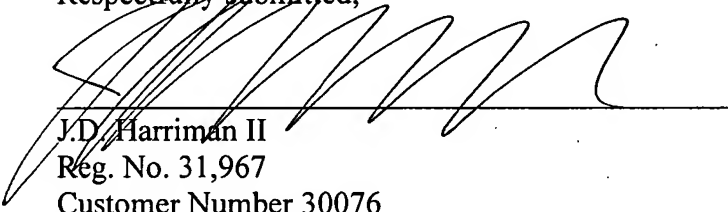
Applicants have made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of all of claims 1-7 is believed to be in order, and a timely Notice of Allowance to this effect is respectfully requested.

No fee is believed due with the submission of this paper. However, if the Applicant is mistaken, the Commissioner is hereby authorized to charge any required fees from Deposit Account No. 502811.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 712-8300. The undersigned attorney can normally be reached Monday through Friday from about 9:00 AM to 6:00 PM Pacific Time.

Respectfully submitted,

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